

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL ACTION NO. C-12-380
	§	
MOISES PAUL GARCIA	§	

**OPINION AND ORDER DENYING MOTION FOR TEMPORARY FURLOUGH
FROM CUSTODY**

Pending before the court is defendant Garcia's motion for temporary furlough from custody (D.E. 17).¹ On June 4, 2012, pursuant to a plea agreement, defendant entered a plea of guilty to count one of the indictment, possession with intent to distribute over thirteen grams of methamphetamine. He faces a mandatory minimum prison term of five years and a maximum term of forty years. His guilty plea was accepted, he was found guilty of the offense, and remanded to custody. Sentencing is set for August 30, 2012. On June 18, Garcia moved for a furlough from custody for two days so that he can be married (D.E. 17). The motion was referred to undersigned United States Magistrate Judge for a decision.

¹ Instrument #16 is also docketed as a motion for furlough from custody (D.E. 16), but the imaged document appears to be a motion for continuance filed in a different case, and appears to have been filed in error. The Clerk shall terminate the document, insofar as it purports to be a motion for relief.

The defendant has another pending indictment, U.S. v. Moises Paul Garcia, Cr. No. C-12-176-02. The defendant was ordered detained without bond in that case, and the charges are pending. No companion motion was filed in that case requesting a furlough or a temporary release on bond. A furlough in this case would not result in release of the defendant because of the detention hold in Cause No. C-12-176-02. The motion for release on furlough is denied.

Even if defendant had filed a companion motion for temporary release in Cause No. C-12-176-02, release and/or a furlough would not be appropriate. Because he has been convicted, the defendant is not entitled to a bond or a furlough at this stage of his case. See 18 U.S.C. 3143. Defendant has not cited any law in support of the request for temporary release, and the court knows of none.

Moreover, according to the Pretrial Services Report, the defendant has prior four convictions for possession of marihuana. At least one of those convictions was a state jail felony. The defendant has never successfully completed a probationary term. He was placed on six months probation for possession of marihuana on April 12, 2002, and arrested one month later on May 3, 2002, for possession of marihuana. On October 17, 2002, he was convicted of the May offense and placed on eight months probation. He was arrested three months later, on January 6, 2003, for possession of marihuana. Then he was arrested again two months after that, on March 21, 2003, also for possession of marihuana. On May 15, 2003, Garcia was placed on twenty-four months probation for the January state jail felony, and that probation resulted in a revocation and extension of probation on March 11, 2005. The defendant admitted to Pretrial Services that he had

been smoking marihuana daily for five years, he uses cocaine twice per week, and he also uses methamphetamine and heroin. He is a poor risk for any type of furlough.

Finally, defendant has proposed no conditions of bond, no cash deposit, no appropriate co-surety or third-party custodian. The motion for a temporary release, or furlough (D.E. 17) is denied.

ORDERED this 19th day of June, 2012.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE